

**REMARKS**

Claims 1 and 3 through 11 are pending in this application, of which claims 7 through 11 stand withdrawn from consideration. Claim 1 has been amended. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, page 12 of the written description of the specification, lines 5 through 10, and Figs. 11A and 11B. Applicant submits that the present Amendment does not generate any new matter issue.

**Clarification of Record**

It is initially noted that in the "Office Action Summary" the Examiner indicated that claims 1 through 6 were rejected; whereas, claim 6 was previously cancelled and only claim 1 was rejected in the "Detail Action". Accordingly, a letter was sent to the Examiner requesting issuance of a new Office Action clarifying the basis for rejecting claims 3 through 6, and to restart the period for response from the date such new Office Action is mailed. The Examiner never responded. Accordingly, it is assumed that the imposed rejection of claim 1 was intended to include claims 3 through 6.

**Claim 1 (presumably intending to include claims 3 through 6) was rejected under the second paragraph of 35 U.S.C. §112.**

In the statement of the rejection, the Examiner asserted that claim 1 is indefinite as to whether there are two devices with two active regions that are rounded or one device with a rounded region. This rejection is traversed.

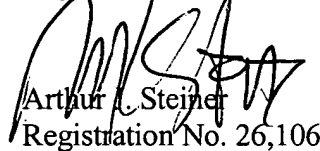
In response claim 1 has been amended, consistent with page 12 of the written description of the specification, lines 5 through 10, and consistent with Figs. 11A and 11B, to address the issue raised by the Examiner and, thereby, overcoming the stated basis for the imposed rejection under the second paragraph of 35 U.S.C. §112. Applicant submits that one having ordinary skill in the art would have no difficulty understanding the scope of the claimed invention, particularly when reasonably interpreted in light of and consistent with the written description of the specification. *Miles Laboratories, Inc. v. Shandon, Inc.*, 997 F.2d 870, 27 USPQ2d 1123 (Fed. Cir. 1993).

Applicant, therefore, submits that the imposed rejection of claim 1 (and presumably claims 3 through 6) under the second paragraph of 35 U.S.C. §112 is not legally viable and, hence, solicits withdrawal thereof.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY

  
Arthur L. Steiner  
Registration No. 26,106

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
(202) 756-8000 AJS:ntb  
Facsimile: (202) 756-8087  
**Date: September 30, 2003**